

#60/BM
PATENT 8-9-99

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

HAROLD A. McMASTER ET AL.

Serial No. 08/655,853

Filed: May 30, 1996

For: GLASS SHEET BENDING APPARATUS

Attorney Docket No. GLT 1618 R

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on:

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Earl J. LaFontaine
Reg. No. 30,766

Earl J. LaFontaine
Signature

SEVENTH SUBSTITUTE REISSUE DECLARATION

Honorable Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The undersigned applicants for reissue, Harold A. McMaster, 9902 Sheffield Road, Perrysburg, Ohio 43551; Norman C. Nitschke, 29737 E. River Road, Perrysburg, Ohio 43551; Dexter H. McMaster, 1070 Elm Street, Perrysburg, Ohio 43551; and Ronald A. McMaster, 29794 Foxhill Road, Perrysburg, Ohio 43551 declare that:

1) We are citizens of the United States of America and residents of the State of Ohio;

2) We believe ourselves to be the original, first and joint inventors of the invention described and claimed in Letters Patent No. 4,883,527 and in the above-identified reissue application and for which we solicit a reissue patent;

3) We do not know and do not believe that said invention was ever used before our invention thereof;

4) We believe said patent to be wholly or partly inoperative or invalid by reason of insufficiency in the claims by claiming less than we had the right to claim in said patent

4) We believe said patent to be wholly or partly inoperative or invalid by reason of insufficiency in the claims by claiming less than we had the right to claim in said patent in that:

- a) After the issuance of the '527 patent, and through sales people of Glasstech, Inc., the assignee of the patent, we became aware of a competing machine;
- b) The competitor who manufactured the competing machine was contacted and they forwarded to us at Glasstech U.S. Patent No. 5,009,693, issued to Kenneth Freidel et al on April 23, 1991, and assigned to Muirfield Holdings, L.P. expressing that the competing machine was covered by this patent;
- c) We forwarded the '693 patent to Christopher J. Fildes, the patent attorney who prepared the application for which reissue is here sought and requested his review;
- d) After his review, Mr. Fildes informed us that Glasstech, Inc. was entitled to broader claim coverage because Muirfield Holdings, L.P. had obtained patent protection on the invention disclosed in the specification of the '527 patent;
- e) Mr. Fildes also informed us that he had read the specification of the '527 patent to determine what subject matter would be identified by one skilled in the art reading the specification as supporting such broader claims invented and disclosed by the patentees; and had concluded that all the claims of the '527 patent had included, "apparatus comprising . . . first platen being deformable and including an actuator for deforming said platen from a planar shape to a bent shape; said first platen including quench openings throughout the extent thereof; said

quench openings of the first platen being movable therewith during the deformation of the platen; a second platen having quench openings throughout the extent thereof; said quench openings of the first platen being movable therewith during the deformation of the platen; a second platen having quench openings throughout the extent thereof and opposing the first platen in spaced relationship with the glass sheet therebetween; . . . and quenching gas being supplied to the quench openings of both platens and thereby to both sides of the glass sheet to temper the bent glass sheet between the platens." and that one object recited, "Another object of the invention is to provide an apparatus that has movable quench openings that move with the surfaces of the flat glass sheet to provide equal thermal conditions during tempering and a more uniformly tempered glass sheet." but that he had erred by including in such apparatus "glass bending" in the claims;

- f) Mr. Fildes also informed us that he did not fully appreciate that the claims to the invention disclosed in the original patent were more limited than such object and thus were inconsistent with such object; and that he had thus concluded that we had claimed less than we as the patentees had a right to claim;
- g) We believe this because we know that the application for which reissue is here sought was originally entitled "Bent Glass Sheet Quench" at the time the application was filed on September 27, 1988 and throughout its pendency until the Notice of Allowance on July 21, 1989, and that one object recited "Another object of the invention is to provide an apparatus that has movable quench openings that move with the surfaces of the flat glass sheet to provide equal

thermal conditions during tempering and a more uniformly tempered glass sheet.";

- h) We also believe that we had claimed less than we as patentees had a right to claim and that Glasstech, Inc. was also entitled to broader claim coverage in that the claims were more limited than the bent glass sheet quench we invented in the apparatus, as disclosed and claimed in the '527 patent;
- i) Such insufficiency arose through error; and
- j) Such insufficiency would be corrected by a claim directed to our quench invention, such as now pending claim 27.

5. We also believe that after the issuance of said '527 patent certain departures from the original patent were made:

- a) On March 9, 1990, in a "MAKE OF RECORD" letter to correct printing errors at" Col. 1, line 57 to change "twostep" to -- two step --;
Col. 2, line 14 to change "jointd" to -- jointed--;
Col. 3, line 36 to change "incldes" to -- includes --;
Col. 3, line 56 to change "separte" to -- separate --.
- b) That such changes and amendments arose through error in the transcription of the application; and that
- c) Such errors would be corrected by amendment of the application as specified in subparagraph 5(a) above.

6. We also believe said patent to be wholly or partly inoperative or invalid by reason of insufficiency in the claims in that:

- a) After filing reissued application no. 775,418, the parent application to the parent of the parent of the present application, we were

advised by the Examiner K. Schor, in Paper No. 3 on April 14, 1992, that claims 1, 15 and 16 did not describe our invention in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the same and/or for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as required under 35 U.S.C. subsection 112;

- b) In particular, we were advised by the Examiner that "and quenching gas being supplied" should properly be "means for supplying quench gas to the quench openings" to properly set forth the enabled invention and in response to such advice did, on July 14, 1992, amend claims 1, 15 and 16 by changing "quenching gas being supplied" to -- means for supplying quenching gas --;
- c) Such insufficiency to claims 1, 15 and 16 arose through inadvertent error in drafting and proofreading the application; and
- d) Such insufficiency would be corrected by amending claims 1, 15 and 16 as indicated in subparagraph 6(b).

7. We also believe said patent to be wholly or partly inoperative or invalid by reason of insufficiency in the claims in that:

- a) After filing reissue application number 08/332,423, the parent application to the present application, we were advised by the Examiner, S.P. Griffin, in Paper No. 35 on July 20, 1995, that claims 9, 10, 12 and 14 did not particularly point out and distinctly claim the subject matter which Applicants regard as their invention, as required under 35 U.S.C. § 112;
- b) In particular, we were advised by the Examiner that in claim 9, line 6, "said template" lacked antecedent basis, and in response to such advice,

we amended claim 9 in the Preliminary Amendment filed with this Reissue Application by deleting "said" and inserting therefor --a--; also, in particular, we were advised by the Examiner that in claim 10, lines 1-2, "a source of quenching gas" is indefinite, and in response to such advice did, on November 20, 1995, amend claim 10 by deleting "further including" and inserting therefor --wherein said means for supplying quenching gas includes-- before "a source of quenching gas"; also, in particular, we were advised by the Examiner that in claim 12, line 1, "said means" is unclear and, in claim 12, line 3, "the" should be deleted, and in response to such advice did, on November 20, 1995, amend claim 12 by inserting --for reversibly driving the drive wheel-- after "means" and by deleting "the" before "said control"; also, in particular, we were advised by the Examiner that, in claim 14, line 3, "said platen" is not clear what platen it refers to, line 4, "quenched," should be --tempered--, and line 5, "therebetween" is unclear, and in response to such advice did, on November 20, 1995, amend claim 14 by inserting --platens-- for "platen" and inserting --tempered-- in place of "quenched";

- c) We were also advised by the Examiner that the drawings did not include reference signs "16'", "17", and "50", though these reference signs were mentioned in the Description. In response to such advice, we propose to amend Figures 1 and 5-8 to correct this error.
- d) We were also advised by the Examiner that the disclosure contained the following informality: In column 4, line 18, reference numeral "3" should be "5". In response to such advice, we amended the Specification to correct this error.

- e) Such insufficiencies to claims 9, 10, 12, and 14 arose through inadvertent error in drafting and proofreading the application; and
- f) Such insufficiencies are corrected by the above-specified amendments to the drawings, specification, and to these claims.

8. After filing this Reissue Application No. 08/655,853, we were advised by the Examiner, S. P. Griffin, in an Office Communication dated December 10, 1996,

- a) That the drawings did not include reference numeral "43" though this reference numeral was mentioned in the Description after column 5, line 63. In response to such advice, we have proposed, in the Amendment filed concurrently herewith, to amend Figure 4 of the drawings to include reference numeral "43";
- b) That the disclosure contained the following informalities: column 5, line 26, "14" should be --22--; and "22" should be --14--.. In response to such advice, we have, concurrently herewith, proposed amending the Specification to correct this error;
- c) That claim 12, as amended in reissue application 08/332,423, the parent application to this reissue application, in an Amendment filed November 20, 1995, "the drive wheel" was unclear as claim 11 referred to plural drive wheels. In response to such advice, we are proposing, in the Amendment filed herewith, to amend claim 12, line 2, to delete "wheel" and insert therefor --wheels--;
- d) Such insufficiencies to the Drawings, specification, and claim 12 arose through inadvertent error in drafting and proofreading the application; and

e) Such insufficiencies are corrected by the above-specified amendments to the Drawings, Specification, and claim 12.

9. That the foregoing errors arose without any deceptive intention on our part.

10. Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicants.

11. That we have read the Substitute Declaration of Christopher J. Fildes attached hereto and ratify its content.

We, the undersigned Applicants for reissue, Harold A. McMaster, Norman C. Nitschke, Dexter H. McMaster and Ronald A. McMaster also hereby state that we have reviewed and understand the contents of the above-identified reissue application, including the claims, and acknowledge the duty to disclose information that is material to the examination of the application under Section 1.56(a) of Title 37 of the Code of Federal Regulations.

The undersigned hereby appoint Ernie L. Brooks, Reg. No. 26,260; James A. Kushman, Reg. No. 25,634; and Earl J. LaFontaine, Reg. No. 30,766 to prosecute this reissue application and to transact all business in the Patent and Trademark Office connected therewith.

The undersigned declare further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001

of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 4 JUNE, 1990Harold A. McMaster
HAROLD A. McMASTERDate: JUNE 10, 1999Norman C. Nitschke
NORMAN C. NITSCHKEDate: JUNE 16, 1999Dexter H. McMaster
DEXTER H. McMASTERDate: 25 MAY 99Ronald A. McMaster
RONALD A. McMASTER

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue application of: **OT:PE** Group Art Unit: 1303
HAROLD A. MCMASTER et al.
Serial No. 775,418
Filed: October 15, 1991
For: **GLASS SHEET BENDING AND TEMPERING APPARATUS**
Attorney Docket No. GLT 1225 R

(Circular stamp: AUG 02 1999, PATENT & TRADEMARK OFFICE)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on

12/9/92 by Christopher J. Fildes
Date of Deposit Registered Attorney

(Signature: Christopher J. Fildes)
Signature

SUBSTITUTE DECLARATION OF CHRISTOPHER J. FILDES

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

1). I, Christopher J. Fildes, say that I am the patent attorney who prepared the patent application associated with the invention described and claims in Letters Patent No. 4,883,527 and in the foregoing reissue application and for which a reissue patent is being solicited.

2). After the issuance of the '527 patent, sales people of Glasstech, Inc., the assignee of the patent, became aware of a competing machine.

3). The competitor who manufactured the competing machine was contacted and they forwarded to Glasstech U.S. Patent No. 5,009,693, issued to Kenneth Freidel et al on April 23, 1991, and assigned to Muirfield Holdings, L.P. expressing that the competing machine was covered by this patent.

4). The '693 patent was forwarded to me for my review.

5). I reviewed the file history of the '693 patent and the art cited therein.

6). After my review, I concluded that Glasstech, Inc. was entitled to broader claim coverage because Muirfield Holdings, L.P. had obtained patent protection on the invention disclosed in the specification of the '527 patent.

7). I also read the specification of the '527 patent to determine what subject matter would be identified by one skilled in the art reading the specification as supporting such broader claims invented and disclosed by the patentees.

8). It appeared to me that all the claims of the '527 patent had included, "apparatus comprising . . . first platen being deformable and including an actuator for deforming said platen from a planar shape to a bent shape; said first platen including quench openings throughout the extent thereof; said quench openings of the first platen being movable therewith during the deformation of the platen; a second platen having quench openings throughout the extent thereof and opposing the first platen in spaced relationship with the glass sheet therebetween; . . . and quenching gas being supplied to the quench openings of both platens and thereby to both sides of the glass sheet to temper the bent glass sheet between the platens." and that one object recited, "Another object of the invention is to provide an apparatus that has movable quench openings that move with the surfaces of the flat glass sheet to provide equal thermal conditions during tempering and a more uniformly tempered glass sheet." but that I erred by including in such apparatus "glass bending" in the claims.

9). That I did not fully appreciate that the claims to the invention disclosed in the original patent were more limited than such object and thus were inconsistent with such object; and that I thus concluded that I had claimed less than the patentees had a right to claim.

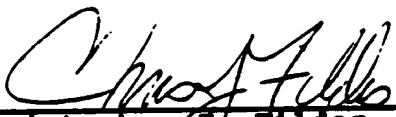
10). My failure to fully appreciate the true nature and scope of the invention disclosed in the original application was without fraudulent or deceptive intention, and arose from inadvertence, accident or mistake.

I also hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true and that I am aware that willful false statements and the like are punishable by fine or imprisonment or both (18 U.S.C. 1001) and may jeopardize the validity of this application or any patent resulting therefrom.

Respectfully submitted,

HAROLD A. MCMASTER et al

BROOKS & KUSHMAN



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Dated: December 9, 1992